the same causes of action. It is to be noted that the second suit was commenced as a consequence of the respondents' failure to reply to the appellants' letter requesting that the respondents abandon their defence in the first suit that no notice of demand was given to them. It seems to us that the learned Chief Justice has exercised the discretion given him by rule 1 of Order 4 correctly and we would not interfere with the orders made.

The next point taken is that the learned Chief Justice was wrong in ordering the appellants to elect and in ordering a stay of the suit which following the election is not to be proceeded with. The appeal is argued on the following grounds: —

First, it is contended that there is no authority in law requiring such an election or such a stay; that the Rules of the Supreme Court make no provision for an election to be required and make no provision for ordering a stay of proceedings in the circumstances.

Secondly, it is contended that the direction that the appellants make an election and the order of stay of the other suit is unfair, oppressive, a denial of justice and prejudicial to the appellants.

Thirdly, it is submitted that the respondents have failed to prove (the burden of proof is on them) that the continuance of either action would be oppressive or vexatious to them or would be an abuse of the process of the court in some other way.

We are unable to accept any of the submissions made by counsel for the appellants.

The court has an inherent jurisdiction to stay proceedings which are an abuse of its process, such as frivolous, vexatious or harassing proceedings. (See paragraph 10 of the First Schedule to the Supreme Court of Judicature Act (Cap. 15) and Order 92 rule 4 of the Rules of the Supreme Court).

If a plaintiff brings two actions in the same court in respect of the same cause of action the court will generally regard it as an abuse of the process of the court and vexatious and will put the plaintiff to his election as to which action he will continue and will stay one of the actions.

In *McHenry* v. *Lewis*[1] Jessel M.R. said (at page 400):

"In this country, where the two actions are by the same man in courts governed by the same procedure, and where the judgments are followed by the same remedies, it is *prima facie* vexatious to bring two actions where one will do And, indeed, this has been recognised, I believe, for ages by the practice of the old Court of Chancery, which always put up a plaintiff to his election by an order of course if he was suing for the same cause of action both at Law and Equity."

In our view the learned Chief Justice has exercised his discretion correctly.

Appeal dismissed.

Solicitors: *Chung & Co.; Y.M. Jumabhoy & Co.*

IN THE MATTER OF AN ADVOCATE AND SOLICITOR

[O.C.J. (Wee Chong Jin C.J., Chua and Rajah JJ.) January 24, 1978]

[Singapore — Originating Summons No. 99 of 1977]

Legal Profession — Advocate and Solicitor — Application to show cause — Letter to advocate and solicitor informing him of investigation on charge of paying money to a tout — Disciplinary Committee set up — Disciplinary Committee making further allegation that advocate and solicitor had received costs other than taxed costs — Whether Disciplinary Committee had power to investigate — Whether allegations proved beyond reasonable doubt — Whether duty of solicitor to make inquiries — Legal Profession Act (Cap. 217), ss. 84, 88 and 93.

In this case as a result of a complaint by the Director of the C.P.I.B. the Council of the Law Society, after referring the matter to the Inquiry Committee and deciding that there should be a formal investigation wrote to the respondent informing him that there will be a formal investigation into the complaint of payment of monies to a tout for bringing in accident cases. The matter was referred to a Disciplinary Committee and the Disciplinary Committee then specified the following complaints against the respondent: (i) payment of monies to a tout for bringing in accident cases and (ii) receiving other than taxed costs from accident victims. After hearing and investigating the matters the Disciplinary Committee submitted their report in effect stating that the charges were proved. An application was thereupon made calling upon the respondent to show cause why he should not be dealt with under section 84 of the Act.

Held: (1) by virtue of section 88 of the Legal Profession Act it is the Council of the Law Society that formulates charges against an advocate and solicitor and under section 93(1) of the Act a Disciplinary Committee appointed by the Chief Justice can only investigate matters referred to it by the Council and cannot decide on its own motion to investigate matters not specifically referred to it by the Council. Therefore all or any of the matters relating to the receiving and accepting of monies from accident victims other than taxed costs could not properly have been heard by the Disciplinary Committee and hence were not properly before the court;

(2) the charge under section 84(2)(e) of the Act must be proved beyond reasonable doubt and in this case the evidence was insufficient to justify the Disciplinary Committee drawing the irresistible inference which led them to find that the respondent was guilty of the charge. Accordingly no order would be made on the application;

(3) there is no statutory rule in Singapore which is equivalent to Rule 4 of the English Solicitors' Practice Rules 1936 and as the respondent was not specifically charged with having failed to make reasonable inquiry before accepting instructions it was unnecessary for the court to consider whether or not the respondent had contravened section 84(2)(h) of the Legal Profession Act.

Case referred to:-

(1) *Re a Solicitor* [1945] 1 All E.R. 445.

ORIGINATING SUMMONS.

Tay Soo Tee for the Law Society.

L.A.J. Smith for the respondent.

Rajah J. (delivering the judgment of the Court): This is an application under section 98(6) of the Legal Profession Act (Cap. 217) (hereinafter referred to as "the Act") calling upon Ong Tiang Choon (the respondent), an advocate and solicitor of this court, to show cause why he should not be dealt with under the provisions of section 84 of the Act, the relevant portions of which read:—

"84(2) Such due cause may be shown by proof that such person —

(b) has been guilty of fraudulent or grossly improper conduct in the discharge of his professional duty or guilty

of such a breach of any usage or rule of conduct made by the Council under the provisions of this Act as in the opinion of the court amounts to improper conduct or practice as an advocate and solicitor; or

(e) has directly or indirectly procured or attempted to procure the employment of himself or any advocate and solicitor through or by the instruction of any person to whom any remuneration for obtaining such employment has been given by him or agreed or promised to be so given; or

(h) has done some other act which would render him liable to be disbarred or struck off the roll of the court or suspended from practice or censured if a barrister or solicitor in England due regard being had to the fact that the two professions are fused in Singapore;"

The matter stems from a complaint to the Law Society on March 10, 1976 by the Director of the Corrupt Practices Investigation Bureau. No doubt the Council referred the said complaint under section 86(1) to the Inquiry Committee which inquired into and investigated the complaint and reported to the Council under section 87 of the said Act. The Council under section 88(1)(c) of the Act determined that there should be a formal investigation by a Disciplinary Committee and, acting under section 88(2) of the Act, wrote to the respondent on September 16, 1976:—

"Law Society of Singapore
Supreme Court Building,
Singapore 6.
16th September 1976

Ong Tiang Choon Esq.,
Messrs. Ong Tiang Choon & Co.
Room 171-C 3rd Floor Union Building,
179 Tras Street,
Singapore 2.

Dear Sir,

Re: Complaints by the Director, CPIB

I am directed to inform you pursuant to the provisions of section 88(1)(c) of the Legal Profession Act (Chapter 217) that the Council has determined that there should be a formal investigation by a Disciplinary Committee into the following complaints against you, viz:—

Payment of monies to a tout for bringing in accident cases.

Yours faithfully,
Sd. Lim Yew Hock
Co-Secretary,
The Law Society of Singapore"

On the same day the Honourable the Chief Justice by virtue of section 91 of the Act and all powers enabling him in that behalf appointed a Disciplinary Committee to hear and investigate a complaint against the respondent.

In compliance with the Advocates and Solicitors (Disciplinary Proceedings) Rules 1963 the respondent was on October 13, 1976 served with a Formal Application, the Formal Complaint and the Statement of the Case dated September 28, 1976 which specified the allegations against the respondent under two heads (i) payment of monies to a tout for bringing in accident cases and (ii) receiving costs other than taxed costs from accident victims contrary to section 17(3) of the Motor Vehicles (Third Party Risks and Compensation) Act (Cap. 88).

The Disciplinary Committee sat on February 1 and 2, 1977 to hear and investigate into the matters referred to it. At the commencement of the hearing counsel for the Law Society applied to amend the Statement of the Case and, after hearing objections to the proposed amendments from counsel for the respondent, the Disciplinary Committee gave leave to amend. The Amended Statement of the Case then read as follows:—

"Amended Statement of the Case

1. Ong Tiang Choon, an Advocate and Solicitor of the Supreme Court of the Republic of Singapore, is the sole proprietor of the firm of Ong Tiang Choon & Co. of Room 171C (3rd floor), Union Building, Tras Street, Singapore and is of 20 years' standing.

2. Sometime in 1972, one Lee Kim Bock also known as Michael Lee Khoon Bock, visited the office of the said Ong Tiang Choon together with a friend who was injured in an accident and on this occasion, the said Lee Kim Bock also known as Michael Lee Khoon Bock met one Ong Ching Wat, a chief clerk of the said Ong Tiang Choon who expressly or impliedly conveyed to him that if he (Michael Lee Khoon Bock) would bring or introduce injured persons (i.e. accident victims) to the firm of Ong Tiang Choon & Co., Lee Kim Bock also known as Michael Lee Khoon Bock would be paid for his efforts and services.

3. Between 1972 and 1974 the said Lee Kim Bock also known as Michael Lee Khoon Bock (hereinafter referred to as 'the tout') for reasons of business, that is to say, for reward or remuneration became interested in accident claims and introduced, recommended or brought, about ten accident victims to the said Ong Tiang Choon's office, and the said Ong Tiang Choon acted for these accident victims and accepted them as his clients, all of whom were brought to him by the said tout.

4. Amongst the accident victims referred to in paragraph 3 hereof were one Patrick Lau, an infant and one Romli bin Sulaiman alias Romli bin Sulaman who were involved in two separate road accidents in Singapore in 1974. With respect to each of these cases, the tout loitered outside the Sepoy Lines Police Station, Singapore and in the case of the said Patrick Lau, he approached Patrick Lau and his parents Goh Ah Tin and Lau Hock Seng after they had made a report at the said police station and prevailed upon them to follow him to Ong Tiang Choon's office where they met and were initially attended to by one Ong Tai Buay, a clerk attached to Ong Tiang Choon & Co. With respect to the said Romli bin Sulaiman alias Romli bin Sulaman, the tout approached him after he had made a report at the Sepoy Lines Police Station, and brought him to Ong Tiang Choon's office where they met and were attended to by Ong Ching Wat, a chief clerk of Ong Tiang Choon & Co. Subsequently, Ong Tiang Choon acted for the aforesaid persons and settled their respective claims with the appropriate insurance companies as follows:—

1. *Patrick Lau*

General Damages - - - -	$500
Special Damages - - - -	$250
Costs - - - - - - - -	$100
	$850

Out of the total sum of $850 received from Oriental Fire and General Insurance Co. Ltd., Ong Tiang Choon deducted two sums of $150 and $100 allegedly being his costs and gave Patrick Lau's mother, Goh Ah Tin $600 but she was asked to acknowledge $750.

2. *Romli bin Sulaiman* alias *Romli bin Sulaman*

Out of a sum of $500 received from the Peoples Insurance Co. (M) Ltd., Romli bin Sulaiman alias Romli bin Sulaman received $250 and Ong Tiang Choon retained $250 out of which $150 was agreed costs from the insurance company and $100 was alleged to be costs in lieu of taxation.

5. The said Ong Tiang Choon whilst acting for the said Patrick Lau, his mother Goh Ah Tin and Romli bin Sulaiman alias Romli bin Sulaman, did in each of the aforesaid cases. receive or accept payments of money from them for so acting other than taxed costs, contrary to the provisions of section 17(3) of the Motor Vehicles (Third-Party Risks and Compensation) Act, (Cap. 88).

6. For each of the two cases referred to in paragraph 4 hereof, the tout was paid $20 by the said Ong Ching Wat

with the knowledge or tacit approval of the said Ong Tiang Choon. Both Patrick Lau and/or his parents and Ramli bin Sulaiman alias Romli bin Sulaman did not know Ong Tiang Choon or his firm or any member of his staff and save for the intervention or effort of the tout, they were unlikely to have engaged Ong Tiang Choon to act for them in their respective claims.

7. By reason of the matters aforesaid, the said Ong Tiang Choon has directly or indirectly procured the employment of himself through or by the instruction of the tout to whom a remuneration for obtaining such employment has been given by him through his chief clerk, Ong Ching Wat, within the meaning of section 84(2)(e) of the Legal Profession Act (Cap. 217).

8. Alternatively, by reason of the matters aforesaid referred to in paragraphs 5 and 6 hereof, the said Ong Tiang Choon has done an act or acts which would render him liable to be disbarred or struck off the roll of the court or suspended from practice or censured if a barrister or solicitor in England due regard being had to the fact that the two professions are fused in Singapore, within the meaning of section 84(2)(h) of the Legal Profession Act (Chapter 217).

9. Further or in the alternative, by reason of the matters referred to in paragraphs 5 and 6 hereof, the said Ong Tiang Choon has been guilty of grossly improper conduct in the discharge of his professional duty within the meaning of section 84(2)(b) of the Legal Profession Act (Chapter 217)."

After hearing and investigating the matters referred to it the Disciplinary Committee drew up a report dated March 11, 1977 (hereinafter referred to as "the Report"). Paragraphs 13 and 14 thereof (as set out hereunder) respectively recorded findings of the Disciplinary Committee in relation to the facts of the case and its determination thereon:—

"13. Accordingly the Disciplinary Committee records its finding as follows:—

(i) Michael Lee Khoon Bok (PW1) clearly acted as a tout in taking Lau Hock Seng (PW2) his wife and their injured son Patrick Lau and the injured Romli (PW3) to the office of Mr. Ong Tiang Choon for which he received payments from Mr. Ong Tiang Choon's clerk, Ong Chin Wat.

(ii) It is true that there is no direct evidence connecting Mr. Ong Tiang Choon with PW1 or that Mr. Ong Tiang Choon overtly acted in a manner to solicit or procure motor accident victims as his clients. Bearing in mind that Mr. Ong Tiang Choon is a solicitor of 20 years experience, 40-50% of whose work was in running down cases and ran an office with a small staff of four the Disciplinary Committee finds it difficult to accept that Mr. Ong Tiang Choon was not aware of what his clerk Ong Chin Wat was doing. The inference is irresistible that Mr. Ong Tiang Choon knew and acquiesced in the acts of his clerk Ong Chin Wat.

(iii) The Disciplinary Committee accepts that *Re a Solicitor* [1945] 1 All E.R. 445 deals with a breach of a specific rule and that Mr. Ong Tiang Choon is not charged under a rule of similar import. However the passage relied on by Mr. Tay clearly shows that the English rule was directed to preventing an abuse. In the words of Scott L.J. ambulance chasing is an opprobrious slang term but it is an abuse and rule 4(c) is directed to the prevention of that abuse. The Disciplinary Committee does not accept Mr. Smith's contention that outside the rule there is no certainty as to whether there is a duty to make inquiry as to how one came to be instructed in a 'running down' case. On the contrary Scott L.J. in the passage cited by Mr. Tay does make it clear that apart from the rule there is a wider aspect 'for the sake of the public . . . to enforce on all solicitors the high standard of duty which rests upon them to make such full inquiries as will really safeguard the poorer and more ignorant members of the public from being exploited for gain by unscrupulous men at times of their distress.' Furthermore section 84(2)(e) of the Legal Profession Act in the terms of which paragraph 7 of the Amended Statement of Case (A2a) is framed and section 17(1) of the Motor Vehicles (Third Party Risks and Compensation) Act which no running down solicitor can be heard to plead ignorance of, clearly show that a high standard of duty is cast on every solicitor to make full inquiries before accepting instructions. Had Mr. Ong Tiang Choon made more than the perfunctory inquiry he says he made he would not have accepted the answer his clerk gave that they were his friends.

(iv) Having regard to the findings contained in the sub-paragraphs (i) to (iii) above the Disciplinary Committee is satisfied that the charge framed by paragraph 7 of the Amended Statement of Case (A2a) that the said Ong Tiang Choon has directly or indirectly procured the employment of himself through or by the instruction of the tout (PW1) to whom a remuneration for obtaining such employment has been given by him through his clerk Ong Chin Wat, within the meaning of section 84(2)(c) of the Legal Profession Act (Chapter 217) is proved.

(v) The explanation that in Patrick Lau's case the costs need not be taxed as Patrick Lau's claim for bodily injury was made by or through the mother who also had a claim separate and independent of her infant son is not worthy of acceptance. The provisions of section 17 of the Motor Vehicles (Third Party Risks and Compensation) Act have been on the Statute Book for too long and its clear unequivocal terms too well known for a solicitor of 20 years experience, 40-50% of whose work is in running down cases to give such an unworthy explanation. Similarly the explanation that the $100 paid by the insurance company as party and party costs was a payment to the solicitor and could be retained without taxation should be rejected.

(vi) The Disciplinary Committee has no doubt at all that the taxation of the bill in Romli's case was an after thought and that it would not have been taxed had not the CPIB intervened. The explanation that small bills are accumulated for taxation later is not accepted. Clearly on the evidence $100 was deducted from the compensation money before taxation and the $150 paid by the insurance company as costs retained. Admittedly some money was returned to Romli before taxation but only after the CPIB intervention. The Disciplinary Committee accepts the evidence of Romli (PW3) that only $100 was returned even though a receipt for $150 was signed (D1). The further explanation that the bill was not taxed before payment to Romli because Romli wanted his money in a hurry was not put to Romli. In fact Romli's evidence was that he had given no instructions to accept any offer from the insurance company and did not know of the acceptance letter (AB18).

(vii) The evidence contained in AB2 and AB15 clearly constitutes an agreement with the clients for the payment of costs without taxation and this is clearly a contravention of section 17(3) of the Motor Vehicles (Third Party Risks and Compensation) Act which states in no uncertain terms that a solicitor shall not receive or accept other than taxed costs. Not only was the agreement made the payment was in fact received.

(viii) The fact that there has been no conviction under section 17(4) of the Motor Vehicles (Third Party Risks and Compensation) Act does not in the Disciplinary Committee's view prevent consideration of whether the evidence establishes transgressions of the clear provisions of section 17(3) amounting to grossly improper conduct. The findings made by sub-paragraphs (v), (vi) and (vii) above clearly constitute transgressions of section 17(3) as to amount to grossly improper conduct.

(ix) Having regard to the findings contained in sub-paragraphs (v) to (viii) above the Disciplinary Committee is satisfied that the charge framed by paragraph 9 of the Amended Statement of Case (A2a) that the said Ong Tiang Choon has been guilty of grossly improper conduct in the discharge of his professional duty within the meaning of section 84(2)(b) of the Legal Profession Act (Chapter 217) is proved.

(x) There is no evidence led that the matters referred to in paragraphs 5 and 6 of the Amended Statement of Case (A2a) would render Ong Tiang Choon liable to be

disbarred or struck off the roll of the court or suspended from practice or censured if a barrister or solicitor in England due regard being had to the fact that the two professions are fused in Singapore within the meaning of section 84(2)(h) of the Legal Profession Act (Chapter 217) and accordingly the Disciplinary Committee makes no finding under paragraph 8 of the Amended Statement of Case (A2a). The members of the Disciplinary Committee do not think it proper to import their personal knowledge into the matter.

14. Having regard to the findings contained in paragraph 13 above the Disciplinary Committee as required by section 93(1) of the Legal Profession Act determines that cause of sufficient gravity for disciplinary action exists under section 84 of the Act and pursuant to section 93(2) orders that Mr. Ong Tiang Choon shall pay the Law Society of Singapore the costs of these proceedings."

The aforesaid application came up for hearing before us on the 5th days of August and September 1977 when counsel for the respondent (Mr. Smith) referred us to section 88(2) of the Act and took the point that by virtue of the Council's said letter of September 16, 1976 the only matters that could properly be heard and investigated by the Disciplinary Committee were matters relating to what had been specifically referred to in the said letter, namely the "payment of monies to a tout in bringing in accident cases" and that therefore the matters set out in paragraphs 4 and 5 of the Amended Statement of the Case relating to the receiving or accepting "payment of monies from the two accident victims for so acting other than taxed costs being contrary to section 17(3) of the Motor Vehicles (Third Party Risks and Compensation) Act" could not lawfully be heard and investigated by the Disciplinary Committee. He submitted that the Disciplinary Committee had no power to hear and investigate matters other than those of which the respondent had been specifically informed of by the said letter under section 88(2) of the Act.

With regard to the finding of the Disciplinary Committee on the charge under section 84(2)(e) of the Act as set out in paragraphs 6 and 7 of the Amended Statement of the Case, Mr. Smith submitted that there was no evidence before the Disciplinary Committee that the respondent "directly or indirectly procured the employment of himself through or by the introduction of the tout to whom a remuneration for obtaining such employment has been given through his chief clerk, Ong Ching Wat." He drew our attention to that portion of the Report where he is recorded as having said, "No evidence of direct touting or of getting any one to do it for him. The evidence of PW1 (the tout) does not involve Ong Tiang Choon. Why do people introduce clients to lawyers? Maybe because they expect to get something in return. Various reasons. There must be procurement, some act express or implied by the solicitor. No evidence that Ong Tiang Choon gave any remuneration. Payment by Ong Chin Wat is not payment by Ong Tiang Choon. There must be something to connect and this element is missing. No rule that solicitors are responsible for the acts of their clerks. No rule that in running down cases there is a greater burden to find out the source from which the client came." He referred to sub-paragraph 13(ii) of the Report which said that there was no direct evidence against the respondent, nor any evidence of any overt act on the part of the respondent to connect him with the charge. He further submitted that the Disciplinary Committee was wrong in finding, on the evidence before it, that the inference was irresistible that the respondent knew and acquiesced in the acts of his clerk. With regard to paragraph 13(iii) of the Report he submitted that the case of "*Re a Solicitor*[1] was dealing with an English practice rule, namely, Rule 4(c) of the Solicitors' Practice Rules 1936 (which imposes a duty on a solicitor to make reasonable inquiry before accepting instructions from anybody in respect of an accident claim, and failure to make such inquiry involves a breach of the rule, whatever might have been the result if reasonable inquiry had been made). The question there was what was the duty by virtue of that rule which had to be proved if reliance was to be placed on it. He further submitted that Ong Tiang Choon had not been charged with breach of the rule which imposes a specific duty and that outside the rule there is no certainty as to whether there is a duty to make this kind of inquiry. This rule, he contended, was enacted in England to make the position certain.

As against this, counsel for the Law Society (Mr. Tay) stood by and reiterated his submissions as recorded in the Report. "Evidence is that PW1 (the tout) after his first visit was prevailed on by Ong Chin Wat that he would reward PW1 if he brought clients which he did and was rewarded. On the point that Ong Tiang Choon gave no directions I say that it is inconceivable that a clerk would fork out his own money nor would the tout do this for charitable purposes. Inference must be drawn that Ong Tiang Choon gave tout approval. There is a duty on solicitors both here and in the U.K. for them to make reasonable inquiries as to how he came to be instructed. Ong Tiang Choon says he asked the clerk and the clerk said they were his friends. I say this falls short of the duty. Refers to 'A guide to the professional conduct of Solicitors' issued by the Council of the Law Society (U.K.) 1974 at page 112 Rule 4 is in point. Reads Refers to *Re a Solicitor*[1] at 450 from the judgment of Scott L.J. In both Romli's case and Patrick Lau's case there was a duty greater than just asking his clerk. He never asked the clients himself. He has breached the duty. Therefore we can't rely on his statement that he did not give the clerk the money and therefore can't be blamed for it. The inference is irresistible. No clerk would pay out of his own pocket without sanction of his master."

With regard to the finding of the Disciplinary Committee on the further or alternative charge set out in paragraph 9 of the Amended Statement of the Case under section 84(2)(b) of the Act, Mr. Smith submitted that the Disciplinary Committee had found the respondent guilty of this charge only by reason of its findings with regard to matters relating to the payment by the respondent to himself of costs in violation of the provisions of section 17(3) Motor Vehicles (Third Party Risks and Compensation) Act. He went on to say that if the court accepted his contention that the Disciplinary Committee had in the instant case no authority to investigate matters relating to such costs then this fundamental error vitiates the finding of the Disciplinary Committee as to the guilt of the respondent under section 84(2)(b) of the Act.

Mr. Smith finally drew our attention to the fact that the Disciplinary Committee had made no finding on the alternative charge against the respondent under section 84(2)(h) of the Act (paragraph 8 of the Amended Statement of the Case) and submitted that, if the court accepted his submissions with regard to the other two charges against the respondent then no case could have been made out against the respondent for disciplinary action of any sort and therefore the order *nisi* application now before the court should be dismissed.

With regard to the point taken by Mr. Smith on the Council's said letter and section 88 of the Act it appears to us that by virtue of this section it is the Council of the Law Society that formulates charges against an advocate and solicitor and that under section 93(1) of the Act a Disciplinary Committee appointed by the Chief Justice can only investigate matters referred to it by the Council and cannot decide of its own motion to inquire into and investigate matters not specifically referred to it by the Council.

In our judgment the point taken by Mr. Smith is a valid one. Consequent on this, therefore, all or any of the matters relating to the receiving and accepting payment of monies from accident victims other than taxed costs could not properly have been heard by the Disciplinary Committee and hence are not properly before us. The only matters which the Disciplinary Committee could have heard against the respondent, and which we therefore can now entertain, are matters relating to payment of monies to a tout in bringing accident cases. This fundamental error on the part of the Disciplinary Committee vitiates the whole of its findings as recorded in sub-paragraphs 13(v), 13(vi), 13(vii) and 13(viii) of the Report and renders them a nullity and of no effect. The finding of the Disciplinary Committee on the charge against the respondent under section 84(2)(b) cannot therefore be supported on the grounds as stated in sub-paragraph 13(ix) of the Report.

With regard to the charge under section 84(2)(e) of the Act, the unchallenged and uncontroverted evidence of the tout himself is as follows:—

1. That he visited by chance sometime in 1972 for the first time the respondent's office regarding an accident case when he met for the first time the respondent's clerk.

2. That on that occasion the clerk told him that if he (the tout) had "friends" who had been involved in accidents he could introduce them to him (the clerk) and that he (the tout) would be paid for so doing. He was also instructed by the clerk on that day as to how he (the tout) could "find these friends" at Sepoy Lines Police Station.

3. That accordingly he went to Sepoy Lines Police Station on a number of occasions where he met accident victims, whom he took to the respondent's office where he introduced them to the clerk who paid him money (which the clerk took from his own pocket) for his services.

4. That he had visited the respondent's office in all about ten times and that on those occasions he had seen the respondent but had never spoken to him.

The evidence of the respondent on this matter was as follows:—

1. That he did not interview the two accident victims on how they came to be in his office or in regard to their accidents.

2. That the clerk interviewed them.

3. That he did not remember seeing the tout and that he had no dealings with him (the tout).

4. That he never paid any monies to the clerk for bringing clients to his firm.

5. That almost 40-50% of his work is running down work.

6. That he did not think it was necessary to inquire from his clerk how the clients came to his firm. However his clerk told him that they were his friends.

7. That on being questioned by him (presumably after the complaint had been sent to him) the clerk had denied making payments out of his pocket.

8. That he practised on his own. At the material times he had four members on his staff — the clerk, 2 female typists and a court clerk.

Under cross-examination he said, "Agree that touting for accident cases is reprehensible and dishonourable. Agree it is equally dishonourable for the solicitor to associate with a lay tout. I do not think there is any duty to inquire in accident cases how the client came to the office. All I need do is to ask the clerk and in this case I accepted the clerk's answer that they were brought by a friend. In Romli's case I probably saw his son before the settlement was finalised. In Patrick's case I saw the mother when an offer was received from the insurance. I did not see the clients in either case before making an approach to the insurance company."

On March 27, 1976 the respondent wrote to the Inquiry Committee, *inter alia*, as follows: —

"I have asked Ong Ching Wat about Michael Lee's allegations and he explained as follows:— He denied that between 1972 and 1974 Michael Lee had recommended about 10 accident victims (not named) to him in my office and was paid $20 each by him. He could not remember whether Romli bin Sulaiman was recommended by Michael Lee or another friend. He said that Michael Lee was his friend who did introduce some cases to him but he did not pay money to Michael Lee. He said that he knew Michael Lee was a vehicle driver but he did not know of his activities at the Sepoy Lines Police Station."

On behalf of the respondent, Mr. Smith made two submissions to us which are in our view fundamental to the respondent's case. The first was that there is no practice rule in Singapore that in running down cases there is any greater burden on an advocate and solicitor than in other cases to find out the source from which the client came. The other was that the English Practice Rules relating to such cases namely Rule 4 of the Solicitors' Practice Rules 1936 (S.R. & O., 1936, No. 1005) did not apply to Singapore and that even if they did apply the respondent had not been charged specifically under any of its provisions.

On the evidence before them the Disciplinary Committee found that Michael Lee acted as a tout in taking Patrick Lau and Romli, accident victims, to the respondent's office for which he received pay-

ments from the respondent's clerk, Ong Chin Wat. The Disciplinary Committee also drew an "irresistible" inference that the respondent "knew and acquiesced in the acts of his clerk" although there was no direct evidence connecting him with the tout. It is to be observed that the Disciplinary Committee drew this irresistible inference because the respondent "is a solicitor of 20 years' experience, 40-50% of whose work was in running down cases and ran an office with a small staff of four." It is also to be observed that the Disciplinary Committee did not in their Report make any findings as to whether or not they regarded the respondent as a credible witness. It is also to be observed, from the transcript of his cross-examination, that the respondent appeared to be perfunctorily cross-examined on the "touting" charge against him under section 84(2)(e). The only evidence against him was that of Michael Lee, a self-confessed tout, who did not directly implicate him. The Disciplinary Committee also appeared to have taken into consideration, in finding the respondent guilty under section 84(2)(e) that a solicitor is "under a duty to make full inquiries before accepting instructions to act for a person who has a 'running down' claim and that in the present case the respondent made merely a 'perfunctory inquiry'."

A charge under section 84(2)(e) is a serious charge and if found proved could attract the punishment of disbarment. It is settled law that the degree of proof required is the same as in criminal cases and in the present case we are of the opinion that the evidence was insufficient to justify the Disciplinary Committee drawing the "irresistible" inference which led them to find that the respondent was guilty of the charge under section 84(2)(e). Accordingly, we make no order on the application.

At the hearing of this application our attention was drawn to the English case of *Re a Solicitor*[1] in which a solicitor was, *inter alia*, charged with having breached rule 4(C) of the Solicitors' Practice Rules 1936. Rule 4 of the Solicitors' Practice Rules 1936 reads as follows:—

"(A) A solicitor shall not join or act in association with any organisation or person (not being a practising solicitor) whose business or any part of whose business is to make, support or prosecute (whether by action or otherwise and whether by a solicitor or agent or otherwise) claims arising as a result of death or personal injury including claims under the Workmen's Compensation Acts, 1925 to 1934, or any statutory modification or re-enactment thereof in such circumstances that such person or organisation solicits or receives any payment, gift or benefit in respect of such claims nor shall a solicitor act in respect of any such claim for any client introduced to him by such person or organisation.

(B) A solicitor shall not with regard to any such claim knowingly act for any client introduced or referred to him by any person or organisation whose connection with such client arises from solicitation in respect of the cause of any such claim.

(C) It shall be the duty of a solicitor to make reasonable inquiry before accepting instructions in respect of any such claim for the purpose of ascertaining whether the acceptance of such instructions will involve a contravention of the provisions of subsection (A) or (B) of this rule."

The case came before the Court of Appeal which interpreted rule 4(C) in the words of Scott L.J., who delivered the judgment of the court at pages 446-7 thus:—

"The plain meaning of rule 4(C) appears to us to be that every solicitor is imperatively required, before he accepts instructions from anybody in respect of an accident claim, to make all reasonable inquiry, in order to satisfy himself that he will not thereby find himself guilty of a contravention of (A) or (B). The word 'reasonable' has in law the *prima facie* meaning of reasonable in regard to those existing circumstances of which the actor, called on to act reasonably, knows or ought to know. This very proper limitation upon the duty to inquire excludes from the ambit of the rule the many cases where the known facts obviously preclude the necessity of any such inquiry: but it leaves under the duty of inquiry the solicitor, who does not know enough to make him substantially certain that there is no risk of mistake; and unless he has reasonable certainty of such knowledge, he comes under the positive obligation of rule 4(C). Still more does he come under that obligation in a case, where he already has in fact reason to suspect the person or organisation introducing the client, of wittingly or unwittingly putting him in danger of himself contravening (A) or (B):"

Later on, also at page 447 Scott L.J. said:—

"The evil aimed at by rule 4(B) is different. 'Touting' for clients is, like advertising, fundamentally inconsistent with the interest of the public and with the honour of the profession. The function of a solicitor is to advise or negotiate or fight for a client, but only if retained. The client may seek him, but he must not seek the client. And this rule of conduct must be made a reality, and not evaded by the subterfuge of getting some laymen to do the touting for him. To ensure the success of this fundamental policy of the profession, in the case of accident claims, where in practice the danger is greatest, a veto is laid down in rule 4(B) against accepting clients who have been brought to him by lay touts."

There is no statutory practice rule in Singapore which is equivalent to rule 4 of the English Solicitors' Practice Rules, 1936 and as the respondent was not specifically charged with having failed to make reasonable inquiry before accepting instructions in respect of an accident claim it is unnecessary for us to consider whether or not the respondent, on the evidence before us, has contravened section 84(2)(h) of the Act.

We think it right to draw the attention of the Council of the Law Society, in whom the power to make rules for regulating the professional practice of the legal profession is conferred by section 73 of the Act, to the desirability and indeed the necessity of making a statutory practice rule in terms of rule 4 of the English Solicitors' Practice Rules 1936. It is of the utmost importance for the sake of the public that a statutory duty is cast upon the legal profession to make such full inquiries as will really safeguard members of the public from being exploited by "ambulance chasers" and as will eradicate the abuse of "ambulance chasing".

Each party will bear its own costs.

Order accordingly.